

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

JIM M. PECKEY,

Plaintiff,

v.

Civil Action No. RDB-14-433

BANK OF AMERICA, N.A., *et al.*,

Defendants.

* * * * *

ORDER

The Court having conducted a hearing, reviewed the submissions of the parties, and heard the argument of counsel, for the reasons stated on the record on October 27, 2016, it is hereby ORDERED this 28th day of October, 2016 that:


1. Plaintiff's Motion for Summary Judgment (ECF Nos. 79, 80) is DENIED;
2. Defendants Bank of America, N.A., Nationstar Mortgage, LLC, and U.S. Bank National Association's Cross-Motion for Summary Judgment (ECF No. 84) is GRANTED IN PART and DENIED IN PART;
3. Defendant Specialized Loan Servicing, LLC's Cross-Motion for Summary Judgment (ECF No. 90) is GRANTED IN PART and DENIED IN PART;
4. The following counts of plaintiff's Second Amended Complaint (ECF No. 49) are DISMISSED WITH PREJUDICE by stipulation of counsel:
 - a. Count II (Negligent Misrepresentation);
 - b. Count V (Common Law Fraud);
 - c. Count VI (Promissory Estoppel);
 - d. Count VIII (Maryland Consumer Debt Collection Act);
 - e. Count IX (Maryland Consumer Protection Act);
 - f. Count XI (Maryland Consumer Debt Collection Act);

- g. Count XII (Maryland Consumer Protection Act);
 - h. Count XIII (Declaratory Judgment);
 - i. Count XIV (*Respondeat Superior* against U.S. Bank, N.A.);
5. Summary Judgment is GRANTED in favor of Bank of America, N.A. on Count III (Gross Negligence) of plaintiff's Second Amended Complaint;
6. Summary Judgment is GRANTED in favor of Specialized Loan Servicing, LLC on Count VII (FDCPA) of plaintiff's Second Amended Complaint as to defendant's alleged attempts to collect on the debt ONLY; the matter of defendant's alleged misrepresentation of the debt will proceed to trial for the jury's determination;
7. Summary Judgment is GRANTED in favor of all remaining defendants on plaintiff's claims for punitive damages;
8. Summary Judgment is GRANTED in favor of all remaining defendants on plaintiff's claim for mental and emotional distress damages.

In conjunction with the parties' proposed pretrial order, counsel shall create a consolidated, re-numbered (I-IV) amended complaint for trial with the remaining counts:

- a. Count I (Breach of Contract against Bank of America, N.A.);
- b. Count IV (Negligence against Bank of America, N.A.);
- c. Count VII (FDCPA against Specialized Loan Servicing, LLC as to defendant's alleged misrepresentation of the debt);
- d. Count X (FDCPA against Nationstar Mortgage, LLC).

Finally, the Court notes that this case has been referred to Magistrate Judge Gallagher for settlement. Any settlement-related matter should be addressed to Judge Gallagher ONLY. Judge Gallagher's chambers will contact counsel directly regarding scheduling.



Richard D. Bennett
United States District Judge